REMARKS

A. Status of the Claims

Claims 1-24 are currently pending and are under examination. By the present amendment, claims 1, 5, 6, 16, and 22-24 have been amended to more particularly define the Applicant's invention and to claim it with greater specificity. Claims 2-4 and 13 have been canceled without prejudice. New claims 25-41 have been added. Claims amendments and new claims are supported by the specification and the original claims. No new matter have been added.

After the present amendment has been entered, claims 1, 5-12 and 14-41 will be pending and will be under consideration.

B. Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-24 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention (item 3, page 2 of the Office Action). In particular, the Examiner stated that using limitations "pathological condition," "attaching a moiety," "C^{α}," and "AZT" makes claims indefinite.

The Applicants respectfully disagree. The Examiner is mistaken that "pathological condition" is a limitation. The Applicants respectfully submit that this is not a true limitation but just a part of the preamble of claim 1. As such "pathological condition" does not define the invention and need not be as narrow as the Examiner has suggested. However, being desirous of facilitating the process of examination of the application, the Applicants amended claim 1 by incorporating specific eye conditions.

As to other grounds for rejection, the Applicants made additional appropriate amendments. In view of the foregoing, it is respectfully submitted that the rejection

There is nothing in either Cheng reference explicitly or implicitly describing that the method of claim 1 can be used for the treatment of existing retinal detachment. Cheng I and II are also completely silent with regard to the treatment of other eye disorders recited in claim 1, i.e., macular degeneration and eye trauma. To state succinctly, Cheng I and II teach antiviral and antiproliferative drugs to prevent retinal detachment due to scarring, while the present claims are directed to treatments of retinal detachment caused by scratching and proliferation.

Therefore, both Cheng I and Cheng II fail to disclose every element of claims 1, 22 or 23 as amended, and, therefore, is not a proper prior art reference under 35 U.S.C. § 102 (a) or (b). Thus, each of claims 1, 22, and 23, as amended, is patentably distinguishable over both Cheng references. Claims 2-4 and 13 have been canceled without prejudice and each of claims 5-12, 14, 15 and 24 depends on claim 1, directly or indirectly, and is accordingly considered patentable for at least the same reason. Withdrawal of the rejection and reconsideration are respectfully requested.

D. Rejections Under 35 U.S.C. § 103 (a)

Claims 16-21 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Cheng I and Cheng II in view of U.S. Patent No. 6,120,751 to Unger ("Unger"). The rejection is respectfully traversed on the following grounds.

The standard that has to be satisfied in order to make a valid rejection based on a *prima facie* case of obviousness has been modified recently by the recent Supreme Court decision in the KSR International v. Teleflex Inc. (550 U.S. __ (2007), and there is no longer a strict requirement to satisfy the old " teaching-suggestion-motivation" standard to show obviousness. Under the KSR rule, three basic criteria are considered. First, some suggestion or motivation to modify a reference or to combine the teachings of multiple references still has to be shown. Second, the combination has to suggest a reasonable expectation of success. Third, the prior art reference or combination has to teach or suggest all of the recited claim limitations. Factors such as the general state of

under 35 U.S.C. § 112, second paragraph, no longer applies. Reconsideration and withdrawal of the rejection are respectfully requested.

C. Rejections Under 35 U.S.C. § 102 (a) and(b)

Claims 1-15 and 22-24 stand rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Cheng et al., Investigative Ophthalmology & Visual Science, Feb. 2002, vol. 43 ("Cheng I") (item 5 on pages 3-4 of the Office Action). In addition, claims 1-15 and 22-24 also stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Cheng et al., Investigative Ophthalmology & Visual Science, May 2000, vol. 41, No. 6 ("Cheng II") (item 6 on pages 4-5 of the Office Action). These rejections are respectfully traversed on the following grounds.

It is axiomatic that a valid rejection of a claim for anticipation by a reference requires that the reference explicitly or inherently describe all of the elements, limitations, and relationships recited in the claim. It is submitted that neither Cheng reference describes all the elements and limitations recited in claim 1, as amended.

Indeed, claim 1 as amended, now include limitations requiring that the method be used for the treatment of "macular degeneration, eye trauma, or retinal detachment." Neither Cheng I nor Cheng II explicitly teaches or inherently describes such treatments. All that is taught in both Cheng references is using the compounds, such as HDP-P-GCV (1-O-hexadecylpropanediol-3-phospho-ganciclavir) for the treatment and/or prevention of the viral retinitis, i.e., cytomegalovirus (CMV) infection of the retina.

The Examiner noted that Cheng II mentions retinal detachment (page 1523, right-hand column, the last line in the first paragraph). The Applicants respectfully point out that this mentioning does not teach the treatment of retinal detachment. Cheng II merely discusses the difficulties and drawbacks inherent in previously used treatments of the CMV infection, such as surgical implantation of the sustained-release ganciclovir, and mentions in passing that one of such difficulties can be retinal detachment.

the art and common sense may be considered when determining the feasibility of modifying and/or combining references.

More specifically, as discussed above, neither Cheng reference discloses or suggests the treatment of particular diseases and disorders recited in claim 1, as amended. Unger fails to eliminate this deficiency. Indeed, Unger teaches compositions for targeted drug delivery but never suggests the use of such compositions for the treatment of retinal detachment, macular degeneration or eye trauma. Just because Unger employs nucleosides does not mean that his teachings are applicable to what is claimed in claim 1. It is submitted that there is no evidence suggesting a skilled artisan who is aware of the teachings of Cheng I and II and Unger, without more, would be motivated to make a modification described by the Examiner.

In view of the foregoing, it is respectfully submitted that claim 1 is patentably distinguishable over Cheng I and II in view of Unger. Each of claims 16-21 depends, directly or indirectly, on claim 1, and is allowable for at least the same reason. Reconsideration and withdrawal of the rejection are respectfully requested.

E. <u>New Claims</u>

By the present amendment, the Applicant added new claims 25-41. These claims are both novel and non-obvious over the cited art. Indeed, each of claims 25 and 26 recites the treatment of macular degeneration or eye trauma. None of the references provided by the Examiner teach or suggest such treatments.

With regard to new claims 27-41, they are also both novel and non-obvious over the cited art. Indeed, these claims recite using only certain specified therapeutic agents, and ganciclovir is not one of them. None of the references provided by the Examiner teach or suggest using any of these agents, teaching instead the use of ganciclovir only.

CONCLUSION

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any matters remain to be resolved, the Examiner is requested to contact the undersigned at the telephone number given below so that a prompt disposition of this application can be achieved.

Check number 586557 in the amount of $730.00 is enclosed as payment for the additional claims fees ($550.00) and information disclosure statement fee ($180.00). No other fee is deemed necessary with the filing of this response. However, if any additional fees are due, the Commissioner is hereby authorized to charge any fees, or make any credits, to Deposit Account No. 07-1896 referencing the above-identified attorney docket number. A copy of the Transmittal Sheet is enclosed.

Respectfully submitted,

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